

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL CHRISTOPHER WILLIAMS,

Petitioner,

v.

Civil Case No. 10-11003

Honorable Patrick J. Duggan

NICK LUDWIG,

Respondent.

**OPINION AND ORDER (1) DENYING PETITIONER'S MOTION FOR
RECONSIDERATION (ECF NO. 24) AND (2) DENYING AS MOOT
PETITIONER'S MOTION FOR EXTENSION OF TIME TO FILE [A REQUEST
FOR A] CERTIFICATE OF APPEALABILITY (ECF NO. 24) AND MOTION
FOR CERTIFICATE OF APPEALABILITY (ECF NO. 31)**

Petitioner filed an application for the writ of habeas corpus pursuant to 28 U.S.C. § 2254, which this Court denied in an opinion and order entered August 8, 2012. Presently before the Court is Petitioner's motion for reconsideration and request for an extension of time to file a request for a certificate of appealability, filed August 17, 2012, and Petitioner's motion for certificate of appealability, filed August 22, 2012.

In his motion for reconsideration, Petitioner challenges the Court's ruling on his first and second grounds in support of his request for habeas relief: (1) that his conviction for both retail fraud and armed robbery violate the Double Jeopardy Clause of the U.S. Constitution, and (2) that there was insufficient evidence to support his armed robbery conviction. In his motion, Petitioner fails to demonstrate a palpable defect with respect to the Court's ruling and simply re-asserts the arguments raised in his brief in support of

habeas relief. For the reasons stated in the Court's earlier decision, neither claim has merit.

In its August 8, 2012 opinion and order, the Court already held that a certificate of appealability should not issue. Thus the Court is denying as moot his motion for certificate of appealability. To the extent Petitioner is seeking an extension of time to file a request for a certificate of appealability from the Circuit Court, an extension of time is not necessary. Neither the Rules Governing Section 2254 Cases nor the Federal Rules of Appellate Procedure contain a time by which a motion for a certificate of appealability must be filed. *See* Rule 11 of the Rules Governing § 2254 Cases; Fed. R. App. P. 22. Federal Rule of Appellate Procedure 22 states that if no request for a certificate of appealability is addressed to the court of appeals, the notice of appeal constitutes such a request. Petitioner timely filed his notice of appeal. *See* Rule 11(b) of the Rules Governing § 2254 Cases (indicating the Federal Rule of Appellate Procedure 4(a) governs the time to appeal an order denying a petition for habeas corpus); Federal Rule of Appellate Procedure 4(a) (providing that a notice of appeal must be filed within 30 days after entry of the judgment or order appealed from). Thus Petitioner's request for an extension of time to file his request for a certificate of appealability is moot.

Accordingly,

IT IS ORDERED, that Petitioner's motion for reconsideration (ECF No. 24) is **DENIED**;

IT IS FURTHER ORDERED, that Petitioner's motion for an extension of time

to file a request for a certificate of appealability (ECF No. 24) and his motion for certificate of appealability (ECF No. 31) are **DENIED AS MOOT**.

Dated: September 11, 2012

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

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